

## Connecticut Office of Consumer Counsel

Mary J. Healey, Consumer Counsel



### OCC NEWSLETTER SUMMER 2006

#### *Remarks of Mary J. Healey, Connecticut Consumer Counsel Legislative Energy Summit, May 17, 2006*

- We are reaching an electricity price crisis. We will likely see 20-40% increases on electricity bills next year.
- We need a special session this year to help Connecticut gain back through legislation some control over electricity prices.
- To mitigate electricity cost impacts, Connecticut citizens and businesses should seek to use energy more wisely, by participating in Connecticut's energy efficiency programs, upgrading to energy efficient appliances, etc.
- We also need for the long-term a hedge against the outcomes that are occurring in the ISO New England markets. ISO and FERC have not been able to control electricity price increases. Connecticut needs to regain some local control. One way to do it is to allow CL&P and UI to own some peaking generation under traditional utility rate principles.
- We are reaching a power plant capacity shortage. One way to resolve this shortage would be to allow entities that have a public service obligation to Connecticut's citizens to build some generation.
- Electricity is a unique product that is needed everywhere in the State at all times, on the hottest days and the coldest days, and cannot be easily or cheaply stored. We need to ramp up our planning efforts in order to be sure that we meet the needs of Connecticut's citizens for reliable electric service at reasonable rates. Relying solely on the market for power plant capacity, given siting, environmental and financing hurdles, may not prove to be a safe bet.

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### OCC SUPPORTS ACLU PETITION TO DPUC OVER AT&T AND VERIZON CUSTOMER PRIVACY CONCERNS

On May 24, 2006 the American Civil Liberties Union Connecticut ("ACLU-CT") requested that the Department of Public Utility Control ("DPUC" or the "Department") investigate whether Southern New England Telephone Company d/b/a AT&T Connecticut and Verizon New York have illegally disclosed customer information of their customers in Connecticut to the National Security Agency ("NSA") without warrants, court orders or subpoenas. Pointing to published media reports that telecommunications companies have been approached by the NSA to cooperate with its national security program, the ACLU-CT specifically requested that the Department conduct a thorough investigation of the companies' actions in cooperating with what may be an unwarranted violation of the privacy rights of Connecticut telecommunications customers. In addition, the ACLU-CT is asking the DPUC to establish regulations specifically prohibiting unwarranted disclosures of customer information to law enforcement agencies.

The Office of Consumer Counsel ("OCC"), which is designated by Connecticut law to represent all residential and business consumers of all public utility services in Connecticut before the Department, other state agencies, and federal and state courts, filed papers in support of the ACLU-CT's petition. In particular, the OCC believes that the DPUC should conduct a full investigation, and invite public comment on the ACLU-CT's proposed regulations. The OCC believes

that the DPUC can investigate the companies' actions, if any, without violating any state or federal law, and without resorting to classified or privileged materials which would affect the interests of national security ("state's secret privilege"). Public utility commissions in other states have opened similar dockets to review the privacy policies affecting their consumers, and to determine whether telecommunications companies have adhered to them. According to the OCC's filing, "The Department remains the single authority under state law to enforce and protect the privacy rights of Connecticut's telecommunications customers ....[and an investigation] can proceed without divulging confidential customer information and in that way will assure Connecticut's customers that their privacy interests are being protected to every extent possible."

Both telecommunications companies continue to challenge the CT DPUC's authority. They point to the fact that the federal government has intervened in litigation, on this same issue, in other jurisdictions. The outcome of those federal-state standoffs remain to be seen, as does whether the CT DPUC will also be caught in the cross-hairs. In the meantime, the OCC remains committed to its statutory obligation to advance the interests, in this case "privacy interests", of Connecticut's telecommunications consumers.

*Latest Update:* The DPUC recently determined to hold a hearing on the matter on August 16<sup>th</sup>. A Final Decision is expected in the fall.

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### **EFFORTS TO PROMOTE NATURAL GAS COMPETITION HAVE PLUSES AND MINUSES**

In a May 10, 2006 Decision, the Department of Public Utility Control (“DPUC”) sought to promote retail competition in the natural gas industry, but in a way that creates some reliability risks. While these risks are not extreme, and the Decision certainly could have been worse, the Office of Consumer Counsel (“OCC”) believes that creating the reliability risk for the sake of promoting competition is unnecessary. The good news is that subsidies by firm gas customers have been eliminated, saving firm natural gas ratepayers approximately \$20 million annually.

Retail competition in the natural gas industry began in Connecticut almost a decade ago. Commercial and industrial natural gas customers in each of the utility territories (Connecticut Natural Gas Corporation, The Southern Connecticut Gas Company, and Yankee Gas Services Company) have the ability to choose a competitive supplier (Marketer) for their natural gas commodity service (the distribution of gas is still performed by the utility). However, regulatory difficulties arise when some customers choose a Marketer for their commodity service. Absent a surcharge, the customers of Marketers would pay less for equally reliable service, and customers that remained with the utility would pay more. To compensate for this, the DPUC has ordered that a surcharge be applied to the bills of the Marketers’ customers, to recover a portion of what are called “shifted costs.”

A settlement reached several years ago

between OCC, the utilities and some Marketers provided for the eventual elimination of all shifted costs, not just a portion of the shifted costs, so that customers of Marketers would finally pay their full, fair share for the reliability service they receive. However, achieving this goal turned out to be a difficult and, at times, rancorous affair before the DPUC. OCC argued that revised calculations of shifted costs, coupled with giving the Marketers reasonably priced access to some utility resources, including access to some existing liquefied natural gas facilities on cold days, would eliminate shifted costs. However, the Marketers asked for, and the DPUC granted, an actual release (for a price) of some of the interstate pipeline capacity that the utilities have purchased to serve their customers.

The difficulty arises because of the possibility that a Marketer could go bankrupt. If a Marketer were to go bankrupt, pipeline capacity released to the Marketer would, in OCC’s legal view, be subject to the jurisdiction of a federal bankruptcy court, and would not necessarily be used in a way that benefits Connecticut customers from a cost or reliability perspective. Thus, there is a bankruptcy-related risk associated with the release of pipeline capacity. In an attempt to balance the interests of Marketers and of creating competition against the reliability risk, the DPUC ordered some capacity release, despite the risks.

OCC believes that pipeline capacity release was not necessary to preserve the existence of competitive offerings for commercial and industrial customers. Moreover, from a fairness perspective, the

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risks of competition should not be placed on residential ratepayers who do not receive any of the purported benefits of competition.

pollute our air.

### COUNSEL vs. COUNCIL

Did you know that the correct spelling of the final 'C' in the abbreviated word for the state agency 'OCC' is 'Counsel,' not 'Council'? Unfortunately the word 'Council' has been misused in transcripts, legislative history pages, written testimony presented to the Legislature, meeting agendas and even newspaper articles. Let us set the record straight! We are the Office of Consumer Counsel, not 'Council.' 'Counsel' is another word for 'attorney' and 'advocate', and Attorney Mary Healey, is Connecticut's Consumer Counsel. She was re-appointed in April of this year by Governor Rell to a second five-year term as our state's advocate for utility ratepayers.

### UPDATE ON THE ENERGY CONSERVATION MANAGEMENT BOARD

The year 2005-06 saw the implementation of Connecticut Public Act 05-1, *An Act Concerning Energy Independence* which brought changes to the ratepayer funded Energy Conservation Management Board ("ECMB"). The act created three new board seats-one each for the natural gas distribution companies, and one representative of the Connecticut Municipal Energy Electric Cooperative. As a result, the size of the board increased to fourteen members. This expanded role of the ECMB, along with additional program funds from the natural gas distribution companies and municipalities, increases the benefits that energy consumers can receive from these energy efficiency programs.

Connecticut ratepayers face increasing energy costs, along with a predicted rising peak demand. The cheapest, most cost beneficial way to combat both of these energy/rate expenses is energy efficiency. That, along with expanding the Demand Response Programs, and increasing customer distributed generation, makes Connecticut a leader in combating energy issues. The ECMB is a leader in overseeing these programs and plans that best meet customer energy needs while saving them money. An important added benefit is the inherent environmental benefits as energy efficiency produces no emissions that

### STAFF UPDATES

OCC fills several positions, adding needed resources vital to our ratepayer advocacy mission.

Our new Administrative Hearings Specialist, *Sharon Johnson*, comes to the OCC from a 17-year career as a Paralegal Specialist with the Connecticut Office of the Attorney General ("AG" or "AGO"). Within the AG's Office, Sharon worked in the Health and Human Services Department and Consumer Protection Department. Prior to her career at the AGO, Sharon served 11 years with the State Office of Protection & Advocacy for Persons with Disabilities as a Public Information Officer.



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Our new Accounts Examiner *Dave Thompson* brings almost twenty (20) years experience from the private sector to our office. Dave has worked in both the service and manufacturing industries for Global and Entrepreneurial entities. Dave has an MBA in Accounting and Finance Degree from the University of Hartford.

Our new Staff Attorney, *Joaquina "Jaqui" Borges King*, recently joined us after serving over five years as an Assistant Town Attorney for Hamden, CT. During that time, she was also in the Special Public Defender-appellate unit, representing indigent defendants in their appeals before the Connecticut Appellate and Supreme Court. Jaqui previously practiced commercial litigation and international/legislative and utility law with established law firms in New Haven, CT and Washington, D.C., respectively. She graduated from Wesleyan University (B.A. English, '87) and Georgetown University Law Center (JD, '90).

### Pending/Upcoming Events/Cases of Importance to Ratepayers

- Application of the Connecticut Water Company to Amend Rate Schedules, filed July 18, 2006.
- Birmingham Utilities, hearings begin Monday, July 17, 2006.
- Electric procurement process for 2007 power underway, OCC participates in weekly meetings.
- Governor's Energy Efficiency Call to Action at State Facilities - on track to begin efficiency upgrades early August.

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**The Connecticut Office of Consumer Counsel**, located at Ten Franklin Square, New Britain, Connecticut 06051, is an independent state agency authorized by statute to act as the advocate for consumer interests in all matters which may affect Connecticut consumers with respect to public service companies, electric suppliers and persons, and certified intrastate telecommunications service providers.

The Office of Consumer Counsel is authorized to appear in and participate in any regulatory or judicial proceedings, federal or state, in which such interests of Connecticut consumers may be involved, or in which matters affecting utility services rendered or to be rendered in this state may be involved.

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